

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PSN ILLINOIS, LLC, an Illinois corporation,)	
)	Case No. 07 C 7190
)	
Plaintiff,)	Judge Hibbler
)	
vs.)	Magistrate Judge Valdez
)	
Abcam, Inc.; Abgent, Inc.;)	
Affinity Bioreagents, Inc.;)	
Discoverx Corporation;)	
Exalpha Biologicals, Inc.;)	
Genetex, Inc.; LifeSpan Biosciences, Inc.;)	
Multispan, Inc.; and)	
Novus Biologicals, Inc.)	
)	
Defendants.)	

PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

Plaintiff, PSN ILLINOIS, LLC ("PSN") pursuant to Rule 55 of the Federal Rules of Civil Procedure, respectfully moves this Court to enter a default judgment against defendant Abcam, Inc. ("Abcam"), in the form attached hereto as Exhibit A. In support thereof, Plaintiff states as follows:

1. PSN filed its claim for patent infringement on December 21, 2007 seeking, *inter alia*, damages for past, present and future infringement of United States Patent No. 5,856,443, entitled "Molecular Cloning And Expression of G-Coupled Receptors," issued January 5, 1999 ("the '443 patent") and United States Patent No. 6,518,414B1 entitled "Molecular Cloning and Expression of G-Protein Coupled Receptors", issued February 1, 2003 ("the '414 patent") (see Docket # 1, PSN Complaint at ¶ 3).

2. In its Complaint, PSN alleges that defendant Abcam has infringed claims of at

least '443 and '414 patents through, amongst other activities, the manufacture, use, offer for sale, sale, and/or distribution of products and services utilizing Sphingosine 1-Phosphate Receptor 2/ aka Edg 5/ aka p^{H218} ("SIP2") that fall within the scope of claims of these patents, including at least the following products: SIP2 antibody (Catalog No. ab13128); SIP2 antibody (Catalog # ab13127); SIP2 antibody (Catalog # ab13395); and SIP2 antibody (Catalog # ab38321) (see *id.* at ¶¶ 4, 15) .

3. On January 29, 2008 summons was issued to Abcam to answer or otherwise respond to the allegations of PSN's Complaint (see Docket #9). Attached hereto as Exhibit B is a true and accurate copy of Affidavit of Process Server, Daniel D. Burke, Sr., demonstrating that defendant Abcam was served with Plaintiff's Complaint on January 31, 2008.

4. PSN has engaged Abcam in settlement discussions. Seven other defendants have settled. Settlement discussions continue with the remaining defendant, LifeSpan Biosciences, Inc. However, further settlement discussions with Abcam do not appear fruitful at this time. On April 25, 2008, PSN's attorneys notified Abcam that it had been in default since February 21, 2008, and that PSN was reserving the right to "pursue a default judgment" (4-25-08 Mazza e-mail and previous e-mail exchanges, Exhibit C).

5. No pleading has been filed in this case on behalf of defendant Abcam. Nor has defendant Abcam provided any reason to this Court why an order of default should not be entered against it.

6. Accordingly, PSN respectfully requests that that default judgment be entered against defendant Abcam as set forth in the order attached hereto as Exhibit A.

WHEREFORE, PSN moves this Court to enter a default judgment against defendant Abcam in the form attached as Exhibit A and for the Court to set a date for PSN to file a motion


supporting the monetary damages it has sustained, plus any further relief the Court deems equitable and just.

Dated: April 29, 2008

Respectfully submitted,

PSN ILLINOIS LLC an Illinois corporation,

By:


One of its Attorneys

Michael P. Mazza
Dana Lauren Drexler
Michael P. Mazza, LLC.
686 Crescent Blvd
Glen Ellyn, IL 60137
Tel: 630-858-5071

Shawn M. Collins
Robert L. Dawidiuk
The Collins Law Firm
1770 N. Park Street, Suite 200
Naperville, IL 60563
Tel: 630-527-1595

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**PSN ILLINOIS, LLC,
an Illinois corporation,**

Plaintiff,

vs.

**Abcam, Inc.; Abgent, Inc.;
Affinity Bioreagents, Inc.;
Discoverx Corporation;
Exalpa Biologicals, Inc.;
Genetex, Inc.; LifeSpan Biosciences, Inc.;
Multispan, Inc.; and
Novus Biologicals, Inc.**

Defendants.

Case No. 07 C 7190

Judge Hibbler

Magistrate Judge Valdez

ORDER

THIS CAUSE being before the Court on Plaintiff's Motion for a Default Judgment, notice being provided to the defendant, Abcam, Inc. and the Court being fully advised,

It is hereby ordered:

1. Defendant, Abcam, Inc. is found to be in default.
2. Judgment is entered against Abcam, Inc. per the attached Consent Judgment Order.
3. Plaintiff is ordered to file a motion to prove up its damages within 10 days.

ENTERED: _____

Honorable Judge Hibbler

Michael P. Mazza
Dana Lauren Drexler
Michael P. Mazza, LLC.
686 Crescent Blvd
Glen Ellyn, IL 60137
Tel: 630-858-5071

Shawn M. Collins
Robert L. Dawidiuk
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1770 N. Park Street, Suite 200
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**IN THE UNITED STATES DISTRICT COURT
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Plaintiff,)	Judge Hibbler
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vs.)	Magistrate Judge Valdez
)	
Abcam, Inc.; Abgent, Inc.;)	
Affinity Bioreagents, Inc.;)	
Discoverx Corporation;)	
Exalpa Biologicals, Inc.;)	
Genetex, Inc.; LifeSpan Biosciences, Inc.;)	
Multispan, Inc.; and)	
Novus Biologicals, Inc.)	
)	
Defendants.)	

**CONSENT JUDGMENT ORDER
AS TO DEFENDANT ABCAM, INC.**

This action has come before the Court upon the pleadings and proceedings of record, and it has been represented to the Court that the parties, plaintiff PSN Illinois, LLC ("PSN") and defendant Abcam, Inc. ("ABCAM"), collectively "the Parties," have agreed to a compromise and settlement of this action in which ABCAM has agreed to the entry of this judgment;

WHEREFORE, with the consent of the Parties, through their undersigned attorneys, and with the approval of this Court, it is hereby finally ORDERED, ADJUDGED AND DECREED as follows:

1. The Court has jurisdiction over the parties and the subject matter of this action.
2. PSN owns and has standing to sue for infringement of United

States Patent No. 5,856,443, entitled "Molecular Cloning And Expression of G-Protein Coupled Receptors," issued on Jan. 5, 1999, and United States Patent No. 6,518,414B1, entitled "Molecular Cloning And Expression of G-Protein Coupled Receptors," issued on Feb. 11, 2003 ("PSN's Patents").

3. No payment for or release of infringing products which may have been used by any third parties is provided here, and PSN is free to pursue its damages claim in this action against such third parties.

4. To the best of its current knowledge and belief, ABCAM believes PSN's patents are valid and enforceable.

5. ABCAM agrees never to manufacture, use, deal in, import, sell or offer to sell products or materials which infringe PSN's Patents, such as materials necessary for making its S1P2 antibodies, or any other products falling within the scope of claims of PSN's Patents; if ABCAM ever wishes to do so, it agrees to first request a license from PSN or its assigns under PSN's Patents. ABCAM also agrees to no longer sell S1P2 (edg5) antibodies. Should ABCAM not first request such a license before dealing in infringing products, then in this event ABCAM now agrees to and hereby waives and relinquishes the right to ever contest the validity or enforceability of either of PSN Patents and any of their claims in their present form, whether such assertion of invalidity or unenforceability would be made in a court proceeding or Patent Office proceeding, and whether or not such assertion is made with respect to infringing products in this action or with respect to any other products that may be made, used, sold and/or offered for sale by ABCAM in the future.

6. All claims and defenses of each of the Parties are hereby dismissed with

prejudice.

7. The parties shall each bear their own costs and attorney fees incurred in this action, and the Court shall retain jurisdiction to enforce the terms of this Consent Judgment Order and the Settlement Agreement between the parties concerning this action.

Dated: _____ 2008

Honorable William J. Hibbler
United States District Court Judge

ABCAM, Inc.
332 Cambridge Science Park
Cambridge, CB4 OFW
United Kingdom
Tel: 01223 696000
Fax: 91223 696001
ABCAM, INC.

Michael P. Mazza
Michael P. Mazza, LLC
686 Crescent Blvd.
Glen Ellyn, IL 60137
Tel: 630-858-5071
Fax: 630-282-7123
**Attorneys for PSN
ILLINOIS, LLC**

EXHIBIT B

Affidavit of Process Server

PSN Illinois, LLC

vs Abcam, Inc., et al.

07 C 7190

PLAINTIFF/PETITIONER

DEFENDANT/RESPONDENT

CASE #

Being duly sworn, on my oath, I from Murphy
 declare that I am a citizen of the United States, over the age of eighteen and not a party to this action.

Service: I servedAbcam, Inc.

NAME OF PERSON/ENTITY BEING SERVED

with the (documents) ☐ Subpoena with \$ _____ witness fee and mileage☒ Summons and Complaint

by serving (NAME)

Abcam Inc.at ☐ Home☒ BusinessOne Kendall Sq Cambridge MA☒ On (DATE)1/31/08

at (TIME)

3:00

Thereafter copies of the documents were mailed by prepaid, first class mail on (DATE)

from (CITY)

(STATE)

Manner of Service:☐ By Personal Service.☒ By leaving, during office hours, copies at the office of the person/entity being served, leaving same with the person apparently in charge thereof.

namely

Stephanie Beau Doin☒ By leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the general nature of the papers,

namely

☐ By posting copies in a conspicuous manner to the address of the person/entity being served.**Non-Service:** After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):☐ Unknown at Address☐ Evading☐ Other: _____☐ Address Does Not Exist☐ Service Cancelled by Litigant☐ Moved, Left no Forwarding☐ Unable to Serve in a Timely Fashion**Service Attempts:** Service was attempted on: ()

DATE TIME

DATE TIME

()

DATE TIME

()

DATE TIME

()

DATE TIME

Description:☐ Male☐ White Skin☐ Black Hair☐ White Hair☐ 14-20 Yrs.☐ Under 5'☐ Under 100 Lbs.☒ Female☐ Black Skin☐ Brown Hair☐ Balding☐ 21-35 Yrs.☐ 5'0"-5'3"☐ 100-130 Lbs.☐ Yellow Skin☐ Blond Hair☐ Mustache☒ 36-50 Yrs.☒ 5'4"-5'8"☒ 141-160 Lbs.☐ Brown Skin☐ Gray Hair☐ Beard☐ 51-65 Yrs.☐ 5'9"-6'0"☐ 161-200 Lbs.☐ Glasses☐ Red Skin☐ Red Hair☐ Beard☐ Over 65 Yrs.☐ Over 6'☐ Over 200 Lbs.

OTHER IDENTIFYING FEATURES: _____

State of Illinois

County of Cook

Plymouth

Subscribed and sworn to before me.

Christine Murphy

a notary public, this

day of

Feb, 2008.

NOTARY PUBLIC

SERVED BY
 LASALLE PROCESS SERVERS



CHARTER MEMBER NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS.

MAZZA

AO 440 (Rev. 05/00) Summons in a Civil Action

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

SUMMONS IN A CIVIL CASE

PSN ILLINOIS, LLC, an Illinois Corporation,

Plaintiff,

CASE NUMBER: 07-C-7190

V.

ASSIGNED JUDGE: Judge Hibbler

Abcam, Inc.; Abgent, Inc.; Affinity Bioreagents, Inc.; Discoverx Corporation;
Exalpa Biologics, Inc.; Genetex, Inc.; LifeSpan Biosciences, Inc.; Multispan,
Inc.; and Novus Biologicals, Inc.,

Defendants,

DESIGNATED
MAGISTRATE JUDGE: Magistrate Judge Valdez

TO: (Name and address of Defendant)

Abcam, Inc.
c/o Registered Agent
Neil Haywood
One Kendall Square
Bldg. 200, 3rd Floor
Cambridge, MA 02139

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Michael P. Mazza, LLC
686 Crescent Boulevard
Glen Ellyn, IL 60137
(630) 858-5071

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Michael W. Dobbins, Clerk

Nadine Shirley

(By) DEPUTY CLERK

January 29, 2008

Date



AO 440 (Rev. 05/00) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE
NAME OF SERVER (<i>PRINT</i>)	TITLE

*Check one box below to indicate appropriate method of service***G** Served personally upon the defendant. Place where served: _____

G Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left: _____

G Returned unexecuted: _____

G Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____

Date

*Signature of Server*_____
Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

EXHIBIT C



Printable Version

Flag this message.

From: "Mike Mazza" <mazza@mazzallc.com> [[Save Address](#)] [[Block Sender](#)] [[Report Spam](#)]

To: "Catarina Casais" <catarina.casais@abcam.com>

CC: smc@collinslaw.com, rdawidiuk@collinslaw.com, dana@mazzallc.com

Subject: RE: Abcam

Date: Friday, April 25, 2008 11:05:30 AM

Show Full Headers

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Reply

Reply All

Forward

As Attachment

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Catarina: I had forgotten that Abcam has not even filed an Answer in this case. Its Answer is long overdue. Accordingly, we will be forced to file a motion for default judgment in this case, as it is apparent that Abcam has been delaying without having any reason to do so, other than to try to avoid a judgment. We have been attempting to negotiate in good faith, apparently, with a defendant who was not doing the same. We suggest you obtain US patent litigation counsel quickly. Mike Mazza